

STATEMENT ON PROTECTION OF VULNERABLE GROUPS ACT 2007

- 1 Guidance on the Protection of Vulnerable Groups Act 2007 supersedes the Children (Scotland) Act 2003 and supplements the NHS Fife Disclosure Policy.
2. New laws to strengthen the protection and safeguards for vulnerable adults came into effect on 28th February 2011. The Act aims to improve the safeguards for vulnerable adults by preventing unsuitable people from working with them. The Act introduces a new concept of regulated work which applies equally to the statutory private and voluntary sectors and covers work in both paid employment and unpaid voluntary service.
3. The Protection of Vulnerable Groups Act 2007 created the Disqualified from Working with Vulnerable Groups which is a list of people unsuitable to work with children or vulnerable adults. This list is designed to ensure that people who have harmed children or vulnerable adults in the past, or exposed them to harm, are not able to work with children or vulnerable adults, in paid or voluntary work and employers can be assured there is no known reason why an individual should not work with these vulnerable client groups.
4. The lists will significantly enhance the protection of children and vulnerable adults, but it is important to note that it should complement rather than replace other recruitment and employment procedures. Therefore, the full ranges of pre-employment checks still need to be carried out. Such as interviews, investigation of applicants employment history, references and obtaining disclosures where necessary.
5. Summary of the Act:
 - The Act replaces enhanced disclosures for individuals working with vulnerable groups and introduces a new concept of regulated work. The Scheme is a registration system for all those who work with children and vulnerable adults where by an employer can check and confirm that there is no known reason why an individual should not work with these vulnerable client groups.
 - The Act establishes for the first time in Scotland a list of those who are unsuitable to do regulated work with vulnerable adults. Individuals convicted on indictment of certain sexual or violent offences are included in these lists automatically.
 - An individual may be doing regulated work with children if their work involves any of the following activities as part of their normal duties:- caring for children, teaching, instructing, training or supervising children, being in sole charge of children, unsupervised contact with children under arrangements made by a responsible person, providing advice or guidance to a child or a particular child which relates to physical or emotional well being, education or training. Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children, providing or working for an organisation which provides, a care home service which is provided exclusively or

mainly for children, work on any part of day care premises at times when children are being looked after in part, being a host parent.

- An individual may be doing regulated work with adults if their work involves any of the following activities as part of their normal duties:- caring for protected adults, teaching, instructing, training or supervising protected adults, being in sole charge of protected adults, providing assistance, advice or guidance to a protected adult or particular protected adults which relates to physical or emotional well being, education or training, inspecting adult care services (including inspecting any premises used for the purpose of providing such service).

The Act introduces scheme membership for life, meaning that there will be no need to join again when changing posts within the workforce.

- The Act introduces a new Vetting and Barring Scheme. Basic, standard and enhanced disclosures will continue to be available for non – PVG posts.
- The Act provides for Scottish Ministers to maintain the Disqualified from Working with Children List (“the children’s list”) and for the first time in Scotland, a list of those who are barred from working with protected adults (“the adults list”).
- Organisations have a duty to refer such individuals to the Scottish Ministers for possible inclusion on both lists.
- Failure to make a referral is an offence under the Act.

It will be an offence for an organisation to knowingly employ a person to work with vulnerable groups, if that person is disqualified from working with children and/or protected adults

6. The Act provides safeguards for an individual including the right to appeal to a Sheriff against inclusion on the lists.
7. The fact that someone is disqualified from working with vulnerable groups will be released from Disclosure Scotland to NHS Fife.
- 8, Link to Full Act -<http://www.legislation.gov.uk/asp/2007/14/contents>

9. Procedures for Existing Staff

- Consequently it is an offence for an individual to apply for or to continue to work in regulated work as defined by the Act if he/she is on the Children and Vulnerable Adult Lists

10. Obligation of Employers

- There is a statutory duty on the organisation to make referrals to the Lists where an individual is dismissed or moved into a different position, or who would have been moved or dismissed if they had not resigned or retired, as a result of harming

a child or vulnerable adult or placing a child or vulnerable adult at risk of harm. The organisation may choose to make retrospective referrals to the List of individuals who have been dismissed, transferred, retired or resigned in such circumstances prior to the List being in existence.

- An organisation will be guilty of an offence if it does not make referrals to the Children and Vulnerable Adult Lists in the circumstances set out in the act.
- An organisation also has a duty to refer an individual if information not available to the organisation at the time of the dismissal, resignation, redundancy; transfer etc. has since become available.
- It is important to note that a referral to the Children and Vulnerable Adult Lists is additional to the organisation taking all appropriate steps to notify the Police and any appropriate professional bodies.
- The Act allows for, but does not require, organisations to make retrospective referrals. There is no time bar on making referrals.

11. Obligations of Employees

NHS Fife encourages staff to raise legitimate concerns in relation to misconduct, or dishonest behaviour without fear of reprisals. Employees have a duty to inform their line manager or other appropriate manager where they have legitimate concerns that a colleague has harmed a child or vulnerable adult or placed a child or vulnerable adult at risk of harm in the course of their work or out with their working environment.

Staff have an obligation to advise their line manager if they are convicted of any criminal offences when in NHS Fife employment.

In accordance with NHS Fife's Whistle-blowing Policy, NHS Fife encourages a free and open culture in its dealings between managers, employees and all people with whom it engages in business legal relations. In particular, NHS Fife recognises that all individual members of staff have a right and duty to raise with the organisation in any matter of concern they may have about health service issues concerned with the delivery of care or services to a patient within the organisation. Furthermore, NHS Fife acknowledges that effective and honest communication is essential in the delivery of high quality patient care.

12. Referral Process

An organisation has a duty to refer an individual who is, or has been, doing regulated work with children or vulnerable adults if the individual has (whether or not in the course of their work):

- Harmed a child or vulnerable adult or placed a child or vulnerable adult at risk of harm and has been dismissed as a consequence.
- Harmed a child or vulnerable adult or placed a child or vulnerable adult at risk of harm and would have been dismissed or considered for dismissal but for the fact

that they resigned, retired or were made redundant or came to the end of a fixed term contract.

- Harmed a child or vulnerable adult or placed a child or vulnerable adult at risk of harm and was consequently transferred to a position which was not a child care or vulnerable adult position.
- Referrals on behalf of NHS Fife will be signed by the Head of Human Resources on behalf of the Director of Workforce.
- When a referral is made an acknowledgement will be sent to the referring organisation and the individual concerned will be notified that they have been referred to the Scottish Ministers for possible inclusion on the lists.
- All referrals for listing will be made in accordance with the act. Any individual being considered for listing the process and any issues or implications arising from this will be discussed with them as appropriate. and discussions will take place with any individual involved.